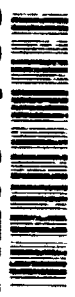


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Crime and Security Risk Background Information for Security Personnel

Richards J. Heuer, Jr.

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CRIME AND SECURITY RISK

Background Information for Security Personnel

By Richards J. Heuer, Jr.

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Preface

This study of crime and security risk is the fourth in a series on behaviors that raise questions about personnel security and suitability. Previous studies dealt with alcohol use and abuse, financial irresponsibility, and compulsive gambling. Future studies will deal with sexual behavior and drug abuse. These reports are part of the research agenda recommended by the 1985 Stilwell Commission Report, *Keeping the Nation's Secrets*, a Report to the Secretary of Defense by the Commission to Review DoD Security Policies and Practices.

It is useful for investigators, polygraphers, adjudicators and managers involved in the security clearance process to know the prevalence of certain types of crimes, the likelihood that a criminal record will be uncovered through various types of records checks, and what may or may not be inferred about future behavior from past criminal activity.

This unclassified report does not make policy recommendations. Individual managers and supervisors should judge the significance of the information for their activities and communicate appropriate guidance to their personnel. The report provides background information for investigators, polygraphers and adjudicators and for development of training programs. It will contribute to development of policies and standards and will help document the basis for security concern with criminal behavior. The report may also be helpful to counselors in employee assistance programs.

This report was prepared for the Central Intelligence Agency with support and assistance from the Defense Personnel Security Research Center. It is being disseminated by both organizations. This DoD report differs slightly from the earlier CIA version.

CRIME AND SECURITY RISK

Background Information for Security Personnel

By Richards J. Heuer, Jr.

Executive Summary

A history of illegal or dishonest behavior is a security concern because it indicates an individual may be inclined to break rules. Willingness to abide by rules is an essential qualification for any individual cleared for access to the nation's secrets.

While the existence of a criminal record can provide grounds for security disapproval, the absence of a criminal record indicates only that no information is available. It cannot, and should not, be construed as evidence that an individual has not engaged in criminal activity.

Crime is widespread, but records of criminal activity are very incomplete. A large portion of crime is not reported to police. Many crimes that are reported never lead to arrests. Many of those arrested are never prosecuted or convicted. And even for those who are convicted, records checked during security clearance investigations are quite incomplete. Records checks identify only the tip of the iceberg of criminal activity.

Only 38% of crimes against individuals are reported to police, and an even larger proportion of crimes against businesses go unreported. For example, shoplifting and theft by retail employees are common, but even those few offenders who are caught are seldom reported to police. Most businesses handle these and other economic crimes, such as fraud and embezzlement, internally (through job termination, restitution, demotion), through civil litigation, or by writing them off as a cost of doing business.

On average, only 22% of the FBI Crime Index offenses reported to law enforcement agencies during 1990 led to arrests. Since only a fraction of crimes are reported, and only a fraction of those reported crimes are solved, the data on persons arrested greatly understate the number who actually committed crimes.

Offenses not processed by the criminal justice system are obviously not recorded in criminal history databases. Even for offenses handled by the criminal justice system, records are often misleading or incomplete. For each 100 persons arrested by the police on felony charges, only 55% are actually prosecuted, and about 22% of those are convicted only of a misdemeanor. The arrest is generally recorded in state and local

agency criminal databases, but disposition of the case after arrest is estimated to be recorded only about 60% of the time.

Much information is missing from the FBI Headquarters files examined as part of the National Agency Check (NAC). A study of Illinois state adult offender files found that about 50% of adults whose arrests were recorded in the state file were not recorded in FBI files. Most centralized state files are also incomplete; that is, there is considerable slippage between local and state files as well as between state and federal records. This should be an important consideration when determining the scope of investigation required for various types of clearances.

Military service recruits who admit previous felony or misdemeanor offenses are accepted only after they are granted a "moral waiver." A study of several hundred thousand moral waiver cases with admitted felony or misdemeanor offenses found that only 10% had a record in FBI Headquarters files as identified by the Entrance NAC conducted on all military recruits. This is attributable, in part, to juvenile offenses not normally being recorded in the FBI files.

Records of juvenile crimes are maintained in separate systems that, in most states, are far less complete, accurate and automated than records on adult criminals. Different states have different procedures for sealing, expunging, or limiting access to juvenile records to ensure that juveniles have an opportunity to change and make a fresh start.

In the absence of complete and accurate criminal records, past criminal behavior is likely to be discovered only by self-admission, interviews with references or developed sources, or polygraph examination. Since shoplifting and theft by retail employees are the most common unreported crimes, interviews of applicants and sources should perhaps focus on these areas. Psychological assessment may identify antisocial personality characteristics commonly associated with criminal behavior. When such personality characteristics are present, more intensive investigation may be appropriate, or this alone may justify disapproval.

This report also provides information on the prevalence of selected types of crime in society as a whole, the likelihood that an arrested person will be prosecuted and convicted, the extent to which past criminal behavior predicts future criminal behavior, the relationship between crime and substance abuse, and passage of time as a mitigating factor when evaluating an individual with a criminal record.

Crime is even more prevalent than many people realize. Law enforcement agencies made an estimated 14 million arrests in 1990 for all criminal infractions except traffic violations. If each arrested person were arrested only once, this would be 5.8% of the total U.S. population arrested in one year. Many offenders have multiple arrests during the course of a year, however, so the 14 million arrests does not involve 14 million different individuals. Many of the offenses were not serious. On the other hand, young

children and the elderly are unlikely to be arrested at all, and females are far less likely to be arrested than males. This means the chance of arrest for a member of the group at greatest risk, males age 15 to 40, is substantial.

A study of males born in 1956 found that 33.9% of the whites (including Hispanic) and 65.5% of the blacks in this age group in California had been arrested at least once for a felony or serious misdemeanor by the time they reached age 29. Only arrests as adults after age 18 were counted in this study; juvenile arrests were excluded. If we limit the data to only the most serious offenses (the eight FBI Crime Index offenses), we find that 14.8% of white male adults and 40.8% of black male adults were arrested for an index offense by age 29.

Evidence that past criminal behavior predicts future criminal behavior supports adjudication standards that disqualify individuals with a significant criminal history. Of 79,000 convicted felons sentenced only to probation in 1986 (i.e., not the most serious felons), 46% had been rearrested and sent to prison or jail or had absconded (whereabouts unknown) within three years. Another 19% had a disciplinary hearing within 3 years for violating a condition of their probation. After 5 to 10 years have elapsed with no further arrests, the chance of rearrest is quite small.

The picture is different with juveniles. The vast majority of juvenile offenders get into trouble only once or twice and stop offending as they mature. However, chronic juvenile offenders (five or more arrests before age 18) are at high risk of becoming adult criminals. One study found that 45% of chronic juvenile offenders became chronic offenders as adults.

In brief, past criminal behavior as an adult is a useful predictor of future behavior, so crime is a valid area of security concern. Criminal records alone have so many limitations as a source of information on past criminal behavior that records checks need to be supplemented by other means of collecting information on this issue.

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Introduction

Director of Central Intelligence Directive No. 1/14, dated 31 January 1992, sets forth criteria for access to sensitive compartmented information (SCI). It specifies that criminal conduct and any pattern of law violations will be weighed when determining whether an individual is stable, trustworthy, and of excellent character, judgment and discretion as required for SCI access.

Background information on criminal behavior is potentially useful to investigators, adjudicators and others involved in the security clearance process. The data in this study fall into six general categories:

- Prevalence of crime in society as a whole, especially those types of illegal behavior most likely to be found in the backgrounds of applicants for security clearance.
- The criminal justice process, especially the likelihood that an arrested person will be prosecuted, or that a prosecuted person will be convicted, including the likelihood that conviction will be for a lesser offense that does not look as bad on the record.
- Quality of criminal history records, including the likelihood that relevant records will be missed by a National Agency Check or local records check, or that information that is found will be incomplete or misleading.
- Prediction of criminal behavior based on previous criminal record, juvenile delinquency, integrity tests, and psychological tests.
- Relationship between crime and alcohol and drug abuse.
- Passage of time as a mitigating factor when evaluating an individual with a criminal record.

Crime is an act or omission that threatens the welfare of society and is punishable by judicial proceedings in the name of the government. The case is brought by a government prosecutor defending the interests of society as a whole. This differs from a civil offense, when a complaint is lodged by one individual against another. A civil case is brought by the plaintiff's attorney, and the punishment is compensation for injury received rather than imprisonment. Civil offenses are not discussed in this report, although repeated involvement in civil litigation may indicate undesirable personality characteristics.

Criminal offenses are commonly divided into felonies and misdemeanors, and the distinction is significant for clearance processing. A felony is usually defined as a criminal

act punishable by incarceration in a federal penitentiary or state prison for one year or more, or by death. A federal felony is a violation of federal law such as espionage, counterfeiting, kidnapping, bank robbery, postal fraud, and interstate transportation of stolen goods. A state felony is a violation of state law such as murder, burglary, aggravated assault and battery, grand larceny, auto theft, and rape.

A misdemeanor is usually understood as an offense that is punishable by fine or imprisonment for up to one year. Time is usually served in a city or county jail rather than in a state prison. Examples of misdemeanors are retail theft, petty larceny, trespassing, possession of marijuana, disorderly conduct, and resisting arrest. The distinction between a felony and misdemeanor varies a little from state to state. For example, some states have a category of high misdemeanor that is similar to a felony, and the federal system has petty offenses for which the maximum penalty is a fine of \$500.

DCID 1/14 states that conviction for a felony will normally cause disapproval of security clearance. Conviction for a federal or state felony causes an individual to lose certain civil rights, i.e., a convicted felon cannot vote, hold public elective office, practice certain professions and occupations, or purchase a gun. A felony conviction can be mitigated only if there were very unusual circumstances or substantial time has elapsed during which the individual has committed no other offenses.

The impact of a misdemeanor on security clearance depends upon the nature of the offense and the circumstances under which it was committed. Criminal behavior will normally be disqualifying if it involves: force, coercion, or intimidation; firearms, explosives, or other weapons; dishonesty or false statements such as fraud, embezzlement or falsification of documents; obstruction or corruption of government functions; deprivation of civil rights; violence against persons; an established pattern of criminal conduct whether or not the individual was convicted; failure to complete a rehabilitation program resulting from a previous criminal proceeding; or if there is a close and continuing association with persons known to be involved in criminal activities.¹

Crime and Personnel Security

A history of illegal or dishonest behavior is important because it indicates an individual may be inclined to break rules. Willingness to abide by rules is an essential qualification for any individual cleared for access to the nation's secrets. Specific adjudication standards for criminal conduct as specified in DCID 1/14 are reproduced in an appendix to this report.

Studies of issues that arise during background investigations have determined that criminal behavior generally ranks as the third most common issue, after substance abuse

and financial problems. These studies also show that criminal behavior is often associated with other security issues such as alcohol and drug abuse.²

Organizations involved in national security work are obliged to protect themselves against more than just espionage. They need protection against a wide variety of crimes against the organization (embezzlement, procurement fraud, sabotage, and theft of government property, for example) as well as other crimes that affect the work place (drug dealing, illegal gambling, assault on coworkers, theft from other employees, and prostitution). Crimes such as embezzlement and procurement fraud involve a betrayal of organizational trust which is similar in many respects to espionage.

The security significance of criminal behavior depends on the individual's intentions and actions, not on the final outcome of legal action. Many criminals are never caught. Of those who are arrested, many are not prosecuted or are acquitted for technical, legal reasons unrelated to the individual's guilt or innocence. Many who commit felonies are convicted only of a misdemeanor as a result of plea bargaining. The available legal record may be incomplete or misleading to security adjudicators. These points are discussed further below.

Mitigating circumstances that might justify approval despite a criminal record include age at time of offense, nature and circumstances of the offense, and amount of time elapsed since the offense. People do change, but as a general rule adjudicators should require positive evidence of change, not simply the passage of time. Evidence of change might be a change in associates and lifestyle, a pattern of responsible behavior, or results of detailed psychological evaluation. Continuing evidence of aggressive, antisocial, irresponsible, or high-risk behavior should contribute to a decision against approval despite the passage of time since the criminal offense.

National security organizations have a vested interest in maintaining high standards. In his book on dishonesty in the workplace, Hollinger makes this observation:

Many industrial security experts have warned that if an employee is exposed to *laissez faire* attitudes toward honesty, there is a good likelihood that this attitude will carry over into subsequent work experiences....we have learned that the work environment which tacitly ignores or tolerates petty incidents of dishonesty is also the same climate which may cultivate further unethical activity in a variety of other settings.³

Most government organizations and private businesses do not know and cannot measure accurately how much they suffer from different types of crime by employees or outsiders. "The professional business literature contains many accounts indicating that when companies do gather the necessary data, they are often surprised at the magnitude of losses they have been sustaining."⁴

There are no really good figures on the financial costs of crime. Economic losses to U.S. business from employee theft were conservatively estimated in 1988 as ranging from \$15 to \$25 billion per year.⁵ This is greater than the annual economic losses to victims of personal and household crimes, which in 1986 were estimated at not quite \$15 billion.⁶ According to two studies conducted in the 1970s, about 15% of the cost of retail goods sold in the U.S. goes to pay for theft.⁷ Fraud, embezzlement and other forms of crimes against business and government organizations account for many more billions of losses annually. The U.S. Chamber of Commerce estimated in 1974 that about 30% of business failures that occur each year are precipitated by or related in some way to employee dishonesty.⁸

Prevalence of Crime

Introduction

Many people commit an occasional dishonest act while continuing to consider themselves law-abiding, honest citizens. They rationalize that everyone is doing it, they are only taking what they deserve, or it is not harming anyone. Most of these illegal actions are never detected and never reported. They don't show up in crime statistics. They are not uncovered by routine security investigations. They may, however, be revealed voluntarily or show up as unexplained reactions during a polygraph examination.

Criminologists believe that an overwhelming majority of people have committed at least one crime without detection, and a substantial proportion have broken the law more than once.⁹ This may take various forms.

- It may be common pilfering such as taking ashtrays or towels from a hotel room. Security experts estimate that one of every three hotel guests takes some piece of hotel property upon departure.¹⁰
- It may be a financial offense such as padding an insurance claim or failing to report income on an income tax return. After the Internal Revenue Service first required banks and corporations to report all interest and dividend payments to individuals so that these payments could be matched against what the recipients report, the amount of interest and dividends reported on individual tax returns increased by 45%.¹¹
- In some cases, the individual may be unaware the action is illegal--for example, paying a maid or regular babysitter more than \$600 per year without paying Social Security and unemployment compensation insurance.
- Many other offenses such as malicious mischief, disorderly conduct, bribery, perjury, indecency, or assault may result from an uncharacteristic lapse in

judgment or discretion, often during one's youth. An often-cited 1947 study, entitled *Our Law-abiding Lawbreakers*, found that 99% of respondents admitted committing at least one offense from a list of 49 such offenses that carried sentences of not less than one year. None of the respondents had been arrested or classified as a criminal.¹²

The security significance of previously undetected and unprosecuted offenses may be unclear. Certainly willingness to admit such an offense during polygraph examination is a mitigating factor, as are remorse and changes in one's life and attitudes since the offense was committed. Adjudication of such cases should be based on the whole person test.

Sources of Crime Statistics

There are two principal sources of statistics on prevalence of crime in American society. The Uniform Crime Reports (UCR) published annually by the Federal Bureau of Investigation (FBI) since the early 1930s collate information on crimes reported to police and on arrests nationwide. Federal, state and local law enforcement agencies voluntarily transmit to the FBI information on 29 types of offenses. For eight major crimes, known as "index offenses," the data include information on age, race, and number of reported crimes solved. Data are not as complete for the other 21 offenses.

In 1973, the Department of Justice initiated the annual National Crime Survey (NCS), which last year was renamed the National Crime Victimization Survey (NCVS). In the 1990 survey, 95,000 people age 12 and over in a representative sample of 47,000 housing units were interviewed about crimes directed against them personally during the previous 6 months.

The Uniform Crime Report and the Crime Victimization Survey each have marked strengths and weaknesses. Most crimes are never reported to the police, so they are not included in the UCR. Many of these unreported crimes against individuals are reflected in the NCVS, but the NCVS covers only household and personal crimes where the individual is the victim; it does not cover crimes against organizations such as embezzlement, fraud, shoplifting, or arson.

The victimization studies were started in 1973 in part because so much crime was believed to be going unreported. The first victimization survey confirmed this belief, showing that the number of robberies and aggravated assaults was about four times the number recorded by local police departments. Since then, programs have been developed to encourage reporting of crime to the police, to keep better local records on crime, and to standardize procedures including reporting to the FBI. The steady increase in crime shown in the FBI's annual reports reflects, in part, the success of programs to improve reporting procedures rather than an increase in crime.

The victimization surveys rely on data collected the same way year after year, so this is the better source when analyzing changes in the crime rate over time. When questions or procedures are changed, controls are used so that changes do not skew the comparison of data from one year to the next. The FBI's crime reports, on the other hand, rely on administrative data generated by thousands of different law enforcement agencies in a slightly different way each year. Improvements in reporting procedures for the UCR significantly reduce the validity of comparisons over time, especially when comparing current crime rates with the rates of 10 to 20 years ago.

Most economic crimes are handled outside the criminal justice system and are not captured by either the UCB or NCVS. There is no system for recording economic crimes or tracking their frequency. Economic crimes are defined as

... illicit behavior having as its object the unjust enrichment of the perpetrator at the expense of the economic system as a whole and its individual components. The consequences of economic crime are increased costs that are passed on to customers and taxpayers and that place a financial burden upon business, the government, and, ultimately, the public.¹³

Economic crimes may be either white collar crimes or ordinary crimes. Examples of white collar crimes are embezzlement, government procurement fraud, tax evasion, bankruptcy fraud, insurance fraud, consumer fraud, corporate bribery, computer crime, securities fraud, illegal dumping of hazardous waste, and money laundering. Ordinary economic crimes include employee theft and shoplifting. With the exception of burglary and robbery against business, most economic crimes are not reported to police. They are handled internally (job termination, restitution, demotion, etc.), through civil litigation, or are written off as a cost of doing business. As one senior security consultant has said, "If all the crimes against business were dumped on the criminal justice system, it would collapse in a day."¹⁴

This report on crime and security risk does not give statistics on the prevalence of every type of crime. After discussing trends in crime as a whole, it presents prevalence data only on several very common crimes unlikely to be uncovered by a criminal records check (shoplifting, employee theft from retail establishments, family violence) and serious crimes that might be committed against the government (embezzlement, fraud).

Caution is appropriate when using statistical data about the prevalence of any type of behavior, as such information may be misleading and can be misused. Statistics that apply to the overall population will generally be different from frequency rates found in a self-selected and pre-screened pool of persons undergoing security processing.

Overall Crime Statistics

According to the Uniform Crime Reports, law enforcement agencies made an estimated 14 million arrests in the United States during 1990. This is equivalent to 5.8% of the U.S. population being arrested during that one year. In many cases, however, one person was arrested multiple times during the year, so the number of individuals who committed crimes was considerably less than 5.8%. A relatively large proportion of crime is committed by a relatively small proportion of the population. Equally important, the incidence of crime varies greatly for different demographic segments of the population.

One of the more useful studies of criminal participation looked at all males born in 1956 and arrested as adults in California for "retainable"¹⁵ felony and misdemeanor offenses between 1974 and 1985. In other words, this study excluded juvenile offenses but tracked adult offenses for this group from age 18 to age 29.¹⁶ The number of arrests was compared with the total California population in this age group to determine the percentage arrested for the first time during any given year and the cumulative percentage arrested at least once by age 29.

In 1974, the first year when members of this age group turned 18, 4.8% of California males in this age group were arrested after their 18th birthday. In 1975, the first year in which all those born in 1956 were considered adults for the entire year, 5.8% were arrested for the first time. By 1985, when this age group turned 29, 1.8% were arrested for the first time. The probability of a first-time arrest decreases as one gets older as those most prone to commit crimes have already done so and many have already been caught. Also, increased maturity often leads to more responsible behavior.

Figure 1 shows the cumulative probability of a white or black male born in 1956 being arrested in California between age 18 and age 29. By age 29, 33.9% of the white (including Hispanic) and 65.5% of the black males had been arrested at least once. If the data are limited to only the most serious offenses included in the FBI Crime Index, 14.8% of white males and 40.8% of black males were arrested for an index offense by age 29. Other studies show roughly similar figures. Studies that include juvenile arrests show a somewhat higher lifetime arrest rate.

The higher rate of criminal participation by blacks than whites may be due, in part, to differential law enforcement. Because police anticipate a higher crime rate for blacks, police may watch blacks more carefully and arrest them more readily than whites.

A number of studies have found that the rate of participation in crime by males is 3 to 5 times greater than for females, and that the participation rate for black females is somewhat higher than for white females.¹⁷

Cumulative Probability of Arrest California Males Born in 1956

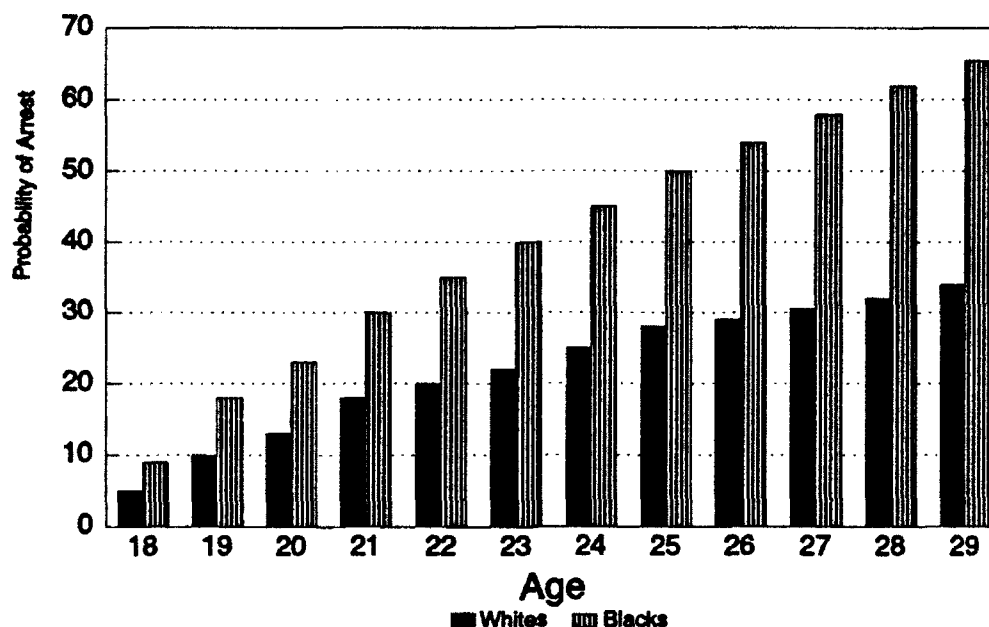


Figure 1

Statistics on how many people are arrested represent only the tip of the iceberg of serious criminal offenders. Many reported crimes are never solved, hence do not lead to arrest. And many other crimes are never reported at all. The UCR reports that 22% of Crime Index offenses reported during 1990 were "cleared," which in most cases means the offender was arrested and turned over to the court for prosecution. The clearance rate was 46% for violent crimes and 18% for property crimes. The NCVS found that only 38% of all criminal victimizations were reported to police. Broken down by type of crime, 48% of violent victimizations, 41% of all household crimes, and 29% of personal thefts were reported.

If 38% of crimes are reported and 22% of those reported lead to arrests, this suggests that the chances of a specific crime leading to arrest are only about 8%. Owing to significant differences in the UCR and NCVS databases, this 8% figure is only a rough approximation.

The national survey of crime victimization asks questions about the offender as well as the victim. In 1990, survey respondents reported that 86.6% of violent crimes (rape, robbery, assault) were committed by males, 13% by females. About one third of the offenders were under age 21, one third age 21 to 29, and one third age 30 and over. About 62% of the crimes were committed by persons the victim perceived as white (which in this survey includes Hispanics) while 27% were perceived as black and 8% other. While more whites than blacks committed rape and assault, completed robberies were more likely to be committed by blacks (55.4%) than whites (32.4%), and many more blacks than whites completed the robbery without injury to the victim.

The UCR data on age, sex and race of violent criminals is very similar to the above results of the crime victimization survey. The UCR also analyzes arrest rates by region of the country and whether the arrest occurs in an urban or rural area. In 1990, the arrest rate was highest in the West with 6,404 arrests per 100,000 population. It was lowest in the Midwest, with 5,133 arrests per 100,000 persons. There were interesting regional variations for specific crimes. Murder rate in the South was almost twice the rate in the Northeast. Arrests for robbery per 100,000 inhabitants were almost three times greater in the Northeast than in the Midwest. Aggravated assault, burglary and motor vehicle theft rates were roughly twice as high in the West as in the Midwest. Offenses against family and children were almost three times greater in the Northeast than in the West. The arrest rate for driving under the influence was twice as high in the West as in the rest of the country, while rate of arrest for simple drunkenness was 18 times greater in the South than in the Northeast.

Nationwide, the rate for all arrests was 5,805 per 100,000 inhabitants, but the rate varies greatly depending upon size and type of population. In cities with over 250,000 population, the rate was 7,989 per 100,000, while cities with populations between 10,000 and 24,999 had a rate of 5,580. The rate was 4,419 in suburban counties and 3,636 in rural counties.

Is Crime Increasing?

Efforts to answer this deceptively simple question illustrate the difficulties in dealing with crime statistics. The answer depends upon whether we are talking about the absolute number of crimes or the crime rate per 100,000 inhabitants, the type of crime, and the time period. The answer also depends upon whether we use the UCR or the NCVS as a source of information.

For the UCR, the FBI has developed a Crime Index which serves as a summary indicator of changes in the rate and type of crime. Eight crimes are counted in the Crime Index: the violent crimes of murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault and the property crimes of burglary, larceny-theft, motor vehicle theft, and arson.

According to the UCR Crime Index, the number of crimes counted in the Crime Index increased by 7.8% from 1981 to 1990. However, if one adjusts for the fact that population increased during this same time period, the rate of crime per 100,000 inhabitants actually decreased by 0.6% during this time period.

Whether crime is increasing or decreasing also depends upon the time period over which comparisons are made. According to the NCVS, crimes of violence decreased by 9.2% from 1973 to 1990, decreased by 16.3% from 1981 to 1990, but increased by 5.1% from 1986 to 1990. The murder rate may be the best indicator of long-term trends in violence, as almost all murders are reported to the police and reported by the police to the FBI.

An American's chance of being murdered was relatively low in the 1950s and early 1960s. It doubled between 1964 and 1974, remained high from 1974 to 1980, declined significantly between 1980 and 1985, and edged back up in the late 1980s. In 1989 the murder rate was higher than it had been from 1983 to 1988, lower than it had been from 1972 to 1982, and higher than it had been from 1950 to 1972.¹⁸

As noted above, there are two fundamentally different sources of statistics on crime in America. The Uniform Crime Reports prepared by the FBI are based on crime reported to police. The National Crime Victimization Survey conducted by the Department of Justice is based on a survey of American households. It is possible to make a direct comparison between these two sources for five different types of crime. Table 1 compares UCR and NCVS findings for the change in crime rate per 100,000 inhabitants from 1981 to 1990.

Table 1
Comparison of UCR and NCVS,
Changes in Crime Rate Per 100,000 Population
From 1981 to 1990¹⁹

Crime	UCR	NCVS
All Violent Crimes	+23.15%	-16.3%
Rape	+14.4%	-32.5%
Aggravated Assault	+46.4%	-18.3%
Robbery	-0.7%	-23.7%
Motor Vehicle Theft	+38.6%	+20.1%

While there are a number of potential sources of error in all these statistics, the NCVS figures are more accurate when comparing trends over a 10-year period. The

UCR numbers are skewed by improvements over time in law enforcement reporting procedures. As reporting procedures become more thorough, crime appears to be increasing. In 1973, for example, citizens told the national crime survey that they reported about 861,000 aggravated assaults to the police, but the police recorded and reported to the FBI only 421,000 cases. By 1988, citizens said they reported 940,000 aggravated assaults to the police, and the police recorded and reported 910,000 cases. The same pattern holds for robbery and rape.²⁰

In short, crime statistics can be presented and interpreted in a number of misleading ways. The public perception that crime is increasing is due, in part, to the media's bias toward reporting bad news. Reports that crime is increasing are more newsworthy than surveys showing crime decreasing. Reports of increased violence in New York and Washington receive more press coverage than corresponding decreases in San Diego, Atlanta or Omaha. And journalistic reports that murder or some other crime has reached an all-time high commonly fail to take into account that the population also reached an all-time high.²¹

Shoplifting

While hard statistics are not available, shoplifting of small, concealable items is extremely common and is estimated to cost retailers \$5 billion to \$25 billion annually.²² Various studies have shown that about 20% of fifth- and sixth-graders, 47% to 63% of high school students, and 40% of college students admit to having shoplifted at least once, although in many cases it was a one-time offense. Although a large portion of shoplifters are juveniles, it is not a majority. Most shoplifters are from the middle class, not from the lowest socioeconomic groups. This is not a crime motivated largely by economic need. A majority of shoplifters have on them the cash or credit cards needed to pay for the stolen items.²³ Although it is a minor offense, shoplifting by an adult not in desperate need reveals important information about an individual's character.

Most shoplifters will not be identified by a routine check of criminal records. Only a small fraction of those who commit the crime are detected. Of those who are detected, even those observed in the act by store detectives, most are handled without being arrested. Of those who are apprehended, most are not turned over to police for prosecution. One private security service reported that only 35.3% of shoplifters apprehended over a 12-year period were reported to the police.²⁴ From a store's perspective, there is little to be gained by prosecution of the offender, but a great deal might be lost. Stores are vulnerable to expensive law suits for false arrest if the charge cannot be proven, and efforts to deliberately set stores up for a false arrest charge are not unusual. Prosecution is also expensive, as it takes the detective and often one or two other store personnel away from their jobs to participate in the legal proceedings. Formal criminal charges and prosecution are most likely if the shoplifter is believed to be

stealing merchandise in order to resell it or return it for refund of the "purchase" price.²⁵

During the past several years, most states have developed a new and far more effective procedure for dealing with shoplifting. Store owners in 43 states can now impose civil fines on shoplifters which range from \$40 to three times "actual damages," depending on the state. Without ever going into the criminal court system, the store owner may turn over collection of the fine to a lawyer or collection agency. In the case of a juvenile, the store owner may collect from the shoplifter's parent. If the fine is not paid, the store owner can sue in civil court.²⁶ This procedure is noteworthy, as it makes it even less likely than before that past shoplifting offenses will be identified by a criminal records check.

Employee Theft

The impression of security personnel and retail store managers is that employee theft outranks shoplifting as a source of loss to retail merchants. Most authors agree that between 50% and 60% of retail employees steal, in one form or another, from their employers, but in this context "stealing" includes misuse of the employee discount, selling merchandise to friends at a discount, and reporting incorrect hours worked. In many cases, the items taken have minimal value. Many rationalize their actions as not stealing.

In a survey of 1,408 retail employees in the Minneapolis area, 60% admitted at least one type of illegal activity, but only 12% admitted taking merchandise without paying for it. The most common activity was misuse of the employee discount, with 57% engaging in this behavior.²⁷ In many cases, misuse of the employee discount may be beneficial to the store, as merchandise is still sold at a profit and the alternative may be no sale at all.

A 1973 survey of 1,188 retail stores determined that about 3% of employees had been apprehended engaging in "dishonest acts." The most common action taken against these employees was dismissal with an attempt to recover merchandise. Only 31% of those apprehended were prosecuted.²⁸

For employee theft, like shoplifting, a check of criminal records is a very imperfect source of information on past transgressions. If the individual fails to disclose these behaviors, they may be a source of unexplained reactions on a polygraph examination.

Family Abuse

Spouse abuse and child abuse are not specifically identified in the FBI's crime reporting statistics or the crime victimization survey. Most cases of abuse within the

family are not reported to police authorities. Those that are may be included in the statistics on assault, sex crimes, and disorderly conduct, or not recorded at all. Information on abuse within the family is available only from studies specifically designed for that purpose. Even then, the prevalence of abuse depends upon how it is defined. When does child discipline cross the line to become child abuse, for example? When does abusive behavior toward a spouse or child cross the line between undesirable behavior and criminal action? It is widely believed that abuse is underreported even in the most carefully conducted studies, as it is so often concealed by the victim as well as the perpetrator.

Two studies on family violence are available to compare the frequency of various types of violence against spouses and children in 1975 and 1985. Although reporting of family violence to social workers and police increased greatly from 1975 to 1985, surveys using a national probability sample of households indicate that the frequency of violence decreased significantly. There are many possible explanations for this, including improved procedures for reporting family violence, increased availability of treatment facilities, and changing norms of acceptable behavior and spousal relationships.²⁹

According to the 1985 data, 1.9% of children age 3 to 17 were subjected to some form of "very severe violence" by a parent during the previous 12 months. Very severe violence was defined as kicking, biting, punching, beating, threatening with a gun or knife, or using a gun or knife. It does not include discipline by hitting with an object such as a stick, hair brush or belt. Some form of violence by the husband directed toward the wife was reported by 11.3% of the 1985 respondents. For 3% of the respondents, this was classified as "severe violence," which includes all the actions listed above as "very severe violence" plus hitting with something. It excludes minor violence such as throwing something, pushing, grabbing, shoving and slapping.

One researcher has suggested that only 1 of each 270 incidents of spouse abuse is ever reported to the authorities.³⁰

It is difficult to compare the frequency of spouse abuse in civilian and military populations, as the reporting mechanisms and incentives for concealment are different. Some researchers believe the rates of reported and unreported physical abuse of spouses and children are slightly higher among military families, but that rates of child neglect and psychological abuse may be higher in civilian populations.³¹

Substantiated cases of spouse abuse in the military have been reported at 1.19%, or 11.9 cases per 1,000 couples.³² Surveys of spouses suggest the actual rate is higher, however. A survey of military spouses in Europe found that 5% of the wives responded that they had been hit by their spouse during the previous year.

Within the military services, the rate of confirmed child abuse is three times as high (16.6 cases per 1,000) among the lowest ranks (E1-E3) as among the next lowest

ranks (E4-E6).³³ One might speculate that this is due to immaturity, financial stress, and difficulty in adjusting to military life away from one's home environment.

Family violence is commonly part of a cycle of violence that has a broad impact on society. A child who grows up in a home in which there is abuse is likely to be abusive toward his or her own child or spouse. About 30 out of 100 children from violent families will be abusive toward their own families in the next generation³⁴, as compared with 3 out of 100 in the general population.³⁵ The social impact of family violence extends far beyond the family, as child abuse is associated with a future of crime, addiction, and emotional disturbance. Children from violent homes are "three to four times more likely than children from non-violent homes to engage in illegal acts ... and to be arrested."³⁶

Embezzlement and Fraud

Embezzlement and fraud are particularly relevant, as they are crimes akin to espionage. They are nonviolent crimes that make use of deception against organizations. Embezzlement always involves using a position of responsibility to betray trust that has been placed in an employee.

Little is known about the prevalence of embezzlement and fraud, as most organizations handle such cases internally to avoid unwanted publicity or because it is less expensive. Employees are fired or reassigned, individuals are required to make restitution, or the loss is simply written off as a cost of doing business. As a result, UCR statistics on arrests for embezzlement and fraud tell little about the actual prevalence of these offenses, but they do reveal interesting patterns about who is arrested for these offenses.

During the period 1981 to 1990, arrests for embezzlement increased by 87%, more than for any other category of crime. According to the UCR, the female arrest rate for embezzlement increased 164% from 1981 to 1990, as compared with 57% for males and 31% for all arrests. This may result from the increase of women in the work force in positions of trust where embezzlement is possible. Arrest for fraud increased by 46% for females and 22% for males. Most of the increase in embezzlement by females came during the early 1980s. In 1990, 59% of those arrested for embezzlement were males and 41% females. For fraud, the comparable figures were 56% male and 44% female. The ratio of females to males arrested for embezzlement and fraud was higher than for any other crime except prostitution. The most common age for arrest of both males and females for either embezzlement or fraud was age 25 to 39. Twice as many whites as blacks were arrested for embezzlement and fraud in 1990, which is roughly comparable to the ethnic distribution of all arrests.

Table 2

**Increase in Arrest for Embezzlement
From 1981 to 1990³⁷**

All Arrests for Embezzlement	+89%
Males	+57%
Females	+164%
Arrests for All Offenses	+31%

The rate of arrest for embezzlement is far higher in the South (which includes Maryland, Virginia and Washington DC) than in any other region--10.2 per 100,000 population in the South, 6.2 in the West, 3.7 in the Midwest, and 2.5 in the Northeast. The arrest rate for fraud is also significantly higher in the South than in any other region. The rate of arrest for embezzlement is two to three times higher in cities between 100,000 and 249,999 population than it is in either the largest cities or in smaller cities or rural areas. The fraud rate, on the other hand, is twice as high in rural counties as in the largest cities.

Prosecution of Crime

Figure 2 shows the typical disposition of each 100 felony arrests brought by the police for prosecution.³⁸ Many cases are dropped or dismissed. Of all the people arrested on felony charges, 54% are convicted, and only 32% are sentenced to serve time in a correctional institution.

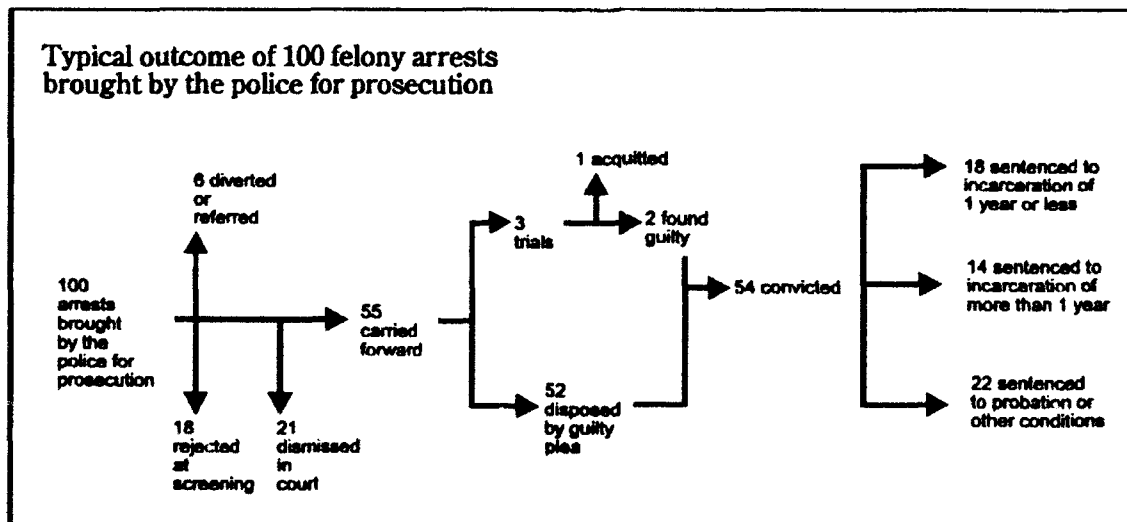


Figure 2

Many cases are dismissed before they get to court for insufficient evidence or legal technicalities unrelated to guilt or innocence. To avoid the cost and uncertainties of a trial, many other cases are plea-bargained from a felony charge to a plea of guilty to a misdemeanor, which generally involves far less serious consequences for the defendant.

For felony arrests which lead to conviction, more than half of the convictions are obtained for misdemeanors rather than felonies.³⁹ Records of these cases may be incomplete or misleading. This is important, because DCID 1/14 treats felonies different from misdemeanors. When evaluating criminal behavior, the primary considerations are the individual's actions and intentions, not the final outcome of the legal process. There is a security concern if the person knowingly and intentionally participated in actions that show disregard for the law, whether or not the individual was caught, prosecuted, or convicted.

Quality of Criminal History Records

The criminal justice system needs accurate criminal history records to identify habitual criminals, make appropriate bail and pretrial decisions, determine sentences, make decisions on release from correctional supervision, and identify felons who attempt to purchase handguns. Many federal and state laws now require use of criminal history information when making these decisions.⁴⁰ The U.S. Government also relies on these records for security clearance investigations.

Unfortunately, the quality of these databases leaves much to be desired. The National Agency Check (NAC), which includes a check of FBI Headquarters records, is often the first step in the investigative process. For a wide variety of reasons, the FBI files contain only a fraction of the data on criminal offenses available through state and other local agencies. Several Defense Department studies have provided insight into how much criminal history data is missed when a check is limited to the national level.

Over the 12-year period from FY 1977 through FY 1988, over 300,000 military service recruits admitted previous misdemeanor or felony convictions and were, therefore, accepted into the service only after the granting of a "moral waiver." Only 10% of those who admitted a prior record had a record in FBI Headquarters files as identified by the Entrance NAC conducted on all military recruits. In other words, the FBI Headquarters files failed to show the arrest record for fully 90% of the recruits who voluntarily admitted to such a record.⁴¹ Part of the reason for this very low hit rate is that juvenile arrest records are not normally forwarded to the FBI, and juvenile crime represents a large part of the criminal history of military enlistees. However, many adult arrest records are also not forwarded for a variety of reasons that differ from state to state. One principal reason is that many reports received by the state from local jurisdictions are not complete enough to meet requirements for inclusion in the FBI database.

For another study now under way, adult arrest records were checked on all recruits who entered the military services from the state of Illinois. About 10% those who entered the services during the period FY 1984 through FY 1987 had one or more arrests recorded in the Illinois adult offender files, but only about 5% had an arrest record with the FBI. In other words, about 50% of adults whose arrests were recorded in the Illinois state file were not recorded in FBI files. With respect to the specific offenses of robbery and burglary, 35% were not recorded in FBI files.⁴²

There is also considerable slippage at the local and state level; that is, most centralized state files are also quite incomplete. The most common failing is lack of reporting on the disposition of those who have been arrested. Only about half of all arrests lead to conviction. Many who are arrested, fingerprinted, and reported to the state's central criminal records repository are subsequently not charged with a crime, are charged but not prosecuted, or are prosecuted unsuccessfully, and these subsequent actions are often not reported to the state repository. Across the nation, including the FBI's Identification Division and state repositories, most experts believe the disposition of cases is reported for only about 60% of reported arrests.⁴³ Another weakness is that expunging, setting aside, or pardoning felony convictions may not be recorded in the state repository, or it may result in the record of the felony conviction being removed from the file. A 1985 survey estimated that between 20% and 35% of criminal history records in most systems, nation wide, are materially inaccurate or ambiguous.⁴⁴

The first comprehensive survey of criminal history records in all 50 states was completed in 1990.⁴⁵ It describes the status of state records as of the end of 1989. Tables 3 and 4 are reproduced from this study. Table 3 is a state-by-state overview of state criminal history record systems. Table 4 is a state-by-state summary of what state laws require be reported to the central state repository.

The Department of Justice is promoting improvement of state criminal history records. A report entitled "Recommended Voluntary Standards for Improving the Quality of Criminal History Record Information" was published in the *Federal Register* on February 13, 1991. A 3-year Criminal History Record Improvement Program started in 1991 to assist states in upgrading records quality at their central repositories. The Crime Control Act of 1990 required each state that receives grant funds under the program to set aside 5% of its award for the improvement of criminal justice records. Twenty-five states now participate to some degree in the Interstate Identification Index (III), a national index being developed to link together the state repositories. The national index will contain personal identification data on individuals whose criminal records are maintained in state record repositories or by the FBI.⁴⁶

The effort to improve state criminal history records is driven by the mobility of the criminal population across county and state lines, by recent federal and state laws that focus on keeping repeat offenders off the streets, and by the Anti Drug Abuse Act of 1988 which mandates development of "a system for immediate and accurate

Table 3

Overview of State Criminal History Record Systems, 1989

State	Percent of record subjects in master name index	Fully automated master name index	Number of subjects (individual offenders) in State criminal history file		Percent of arrests in database which have final dispositions recorded		System flags subjects with felony convictions	System has information to identify unflagged felony convictions
			Total	Automated	All arrests	Arrests within past 5 years		
Total			45,676,400	27,421,500				
Alabama	100%	Yes	1,000,000	500,000	<30%	...		All
Alaska	100	Yes	143,000	123,000	33	33%		All
Arizona	100	Yes	742,100	285,500	...	...	Some	Some
Arkansas	100	No	580,000	0 ^a	20	30		
California	100	Yes	4,500,000	3,000,000	75	85	Some	All
Colorado	100%	Yes	489,000	489,000	10%	10%		
Connecticut	100	Yes	401,400	230,700	...	95		
Delaware	95	No	600,000	500,000	35	...		Some
District of Columbia	100	No	427,000	0	...	...
Florida	100	Yes	2,427,900	2,297,900	49	47	Some	Some
Georgia	100%	Yes	1,055,000	1,055,000	43% ^b	40% ^b		
Hawaii	100	Yes	270,500	270,500	...	70		All
Idaho	100	Yes	165,000	105,000	50	40	All	
Illinois	86	No	2,152,300	1,852,300	50	50	All	
Indiana	100	Yes	670,000	70,000	...	...		Some
Iowa	100%	Yes	300,000	130,000	75%	80%		
Kansas	100	Yes	520,000	15,000	...	77		Some
Kentucky	70	No	535,100	385,100	...	...		Some
Louisiana	100	Yes	1,449,000	484,000	...	...		All
Maine	68	No*	270,000	0	90	95		Some
Maryland	100%	Yes	649,300	449,300	...	60-82%		Some
Massachusetts	...	Yes	5,039,800	1,039,800	100%	100		Some
Michigan	100	Yes	771,800	771,800	64	45		Some
Minnesota	100	Yes	190,600	115,600	65	80		All
Mississippi	100	No*	350,000	0	30	50		All
Missouri	100%	Yes	958,600	772,200	50%	75%		All
Montana	100	Yes	86,000	86,000	80	80		All
Nebraska	100	No	300,000	120,000	50	50		
Nevada	100	Yes	31,300	31,300	60	60		All
New Hampshire	100	Yes	155,000	144,000	35	75		All
New Jersey	100%	Yes	1,090,200	835,200	90%	80%		All
New Mexico	100	Yes	207,000	0	20	20		All
New York	88	Yes	3,812,100	3,108,700	80	75	All	
North Carolina	100	Yes	432,800	357,200	86	95	Some	Some
North Dakota	100	No	202,000	43,300	30	80		Some
Ohio	35%	No	2,315,700	586,700	45%	50%		
Oklahoma	100	Yes	500,000	165,000	...	...
Oregon	100	Yes	548,500	548,500	65	65	Some	Some
Pennsylvania	100	Yes	1,265,800	488,200	...	70	Some	All
Rhode Island	100	Yes	156,900	156,900	...	...		All
South Carolina	100%	Yes	572,900	500,900	72%	75%		Some
South Dakota	100	Yes	144,000	24,000	60	75	All	
Tennessee	100	No	500,000	0	...	...		Some
Texas	100	Yes	3,789,500	3,739,500	40	40		Some
Utah	100	Yes	430,200	330,200	50	70		All
Vermont	100%	Yes	118,000	0	80%	90%		All
Virginia	100	Yes	744,000	418,100	86	95	All	
Washington	100	Yes	474,100	474,100	40-50	40-50	Some	
West Virginia	100	No*	650,000	0	...	70		
Wisconsin	100	Yes	491,000	270,000	...	...	All	
Wyoming	100	Yes	62,000	52,000	60	60		Some

Note: Percentages and numbers reported are results of estimates. Numbers have been rounded to the nearest 100. Percentages have been rounded to the nearest whole number. The figures contained in the column "Number of subjects (individual offenders) in State criminal history file" apply only to the

criminal history file, including partially automated files, and do not include the master name index. Final dispositions include release by police without charging, declination to proceed by prosecutor, or final trial court disposition.

* State is fully manual.
... Not available.

^a Respondent indicated that re-establishment of the Arkansas computerized criminal history file was scheduled to begin July 1, 1990.

^b Respondent indicated that this estimate for recorded dispositions does not include the .55 million backlogged final disposition reports.

Table 4

**Data Required by State Law to Be Submitted
to State Criminal History Repository, 1989**

State	Prosecutor declarations	Felony dispositions by courts with felony jurisdiction	Admission/release of felons		Probation information	Parole information
			State prisons	Local jails		
Alabama	X	X	X			
Alaska						
Arizona	X	X				
Arkansas			X			X
California	X	X	X	X	X	X
Colorado	X	X	X	X	X	X
Connecticut	X	X				
Delaware	X	X	X		X	X
District of Columbia	X	X			X	X
Florida	X	X	X	X		X
Georgia	X	X	X		X	X
Hawaii	X	X	X	X	X	X
Idaho	X	X	X		X	X
Illinois	X	X	X	X	X	X
Indiana	X	X	X	X	X	X
Iowa		X	X	X	X	X
Kansas	X	X	X	X	X	X
Kentucky		X	X		X	X
Louisiana			X	X		
Maine	X	X				
Maryland	X	X	X	X	X	X
Massachusetts						
Michigan		X	X			
Minnesota	X	X	X		X	X
Mississippi	X	X	X	X	X	X
Missouri	X	X	X		X	X
Montana	X	X				
Nebraska	X	X	X	X	X	X
Nevada	X	X			X	
New Hampshire		X	X	X		
New Jersey	X	X	X	X	X	X
New Mexico		X				
New York	X	X	X	X	X	X
North Carolina		X	X	X	X	X
North Dakota	X		X	X	X	X
Ohio	X		X		X	X
Oklahoma						
Oregon		X				
Pennsylvania	X	X	X	X	X	X
Rhode Island						
South Carolina		X				
South Dakota	X	X	X	X	X	X
Tennessee		X	X	X	X	X
Texas						
Utah	X	X	X		X	X
Vermont		X			X	X
Virginia		X	X	X		
Washington	X	X	X			
West Virginia	X	X	X	X	X	
Wisconsin	X	X	X	X	X	X
Wyoming	X	X	X		X	X

identification of felons who attempt to purchase" handguns. The goal is automated linkage of state systems to permit prompt and efficient retrieval of information on criminal offenses, with emphasis on felonies, committed anywhere in the country. At present, access to the Interstate Identification Index is restricted to law enforcement purposes.

Records of juvenile crimes are maintained in separate systems that, in most states, are far less complete, accurate, and automated than records on adult criminals. For example, less than half the law enforcement agencies responding to a survey on juvenile records responded that they even had a way of finding out the prosecution or court dispositions of their juvenile cases.⁴⁷ Different states have different procedures for sealing, expunging, or limiting access to juvenile records to ensure that juveniles have an opportunity to change and make a fresh start.

Until recently, confidentiality of juvenile record systems was ensured *de facto* because the systems were so primitive that the information could not be retrieved anyway.⁴⁸ Currently, attention is focused on reducing crime by identifying career criminals and keeping them off the streets with longer sentences. This increases the pressure for judges, parole boards and others to have prompt access to accurate juvenile records. Efforts are under way in many states to improve the quality and retrievability of these records, and past practices of restricted access to juvenile records are being reviewed.

Although many efforts are under way to improve and automate criminal records, it will be years before a single check of criminal records at the national level identifies all relevant criminal records. This is an important consideration when determining the scope of investigation required for various types of clearances.

If a facilities access or other clearance is granted only on the basis of a NAC, the known limitations of the NAC could become a factor in determining legal liability for what is termed *negligent hiring*. The issue of negligent hiring may arise if, for example, a cleared worker on a cleaning crew becomes violent and harms an employee. The employer may be held legally liable for damages if the behavior was reasonably predictable based on information gathered, *or that should have been gathered*, prior to hiring the service worker. The adequacy of the background check is often considered in such cases.⁴⁹

Predicting Criminal Behavior

Predicting the likelihood of criminal behavior is difficult, as the causes of crime are not known with certainty at this time.⁵⁰ Many different theories advanced during the past century may be grouped into three general categories: biological, psychological, and sociological explanations of crime, as discussed below.⁵¹ Different theories lead to

different assumptions about who is most likely to commit crimes and how laws should be enforced, guilt or innocence determined, and misconduct punished.

Biological theories hold that propensity to commit crime is influenced by inherited genetic factors. This was a dominant theory during the early part of this century, and many habitual offenders were sterilized until the practice was declared unconstitutional in 1942. More recent research has focused on neurological, endocrinological and genetic factors that seem to be related to the violent behavior of some people.

A key tenet of psychological theories of crime is that personality characteristics formed during early childhood determine later behavior. There are many different psychological explanations why some individuals develop antisocial or pathological personalities. A common current view is that childhood abuse plays a key role.

Sociological explanations assume that the criminal's personality and actions are molded by the environment in which the offender lives or has grown up. Therefore, the roots of criminality are found in the social environment--poverty, family breakdown, illiteracy, the drug culture--rather than in the individual. Others counter that blaming society for causing crime actually facilitates law breaking, as it provides seemingly scientific and socially sanctioned excuses for an individual's undesirable behavior.⁵²

Although we cannot say with assurance what *causes* criminality, we can to some degree predict the likelihood of future criminal behavior by identifying factors commonly associated with it. The following sections discuss prior criminal offenses as a predictor of future offenses and juvenile delinquency as a predictor of adult criminality. They also discuss integrity tests and certain personality characteristics as a predictor of betrayal of trust.

Past Criminal Behavior as a Predictor

Evidence that past criminal behavior predicts future criminal behavior supports current adjudication standards that disqualify individuals with a significant criminal history. A study of 108,580 persons released from state prisons in 1983 found that 62.5% were rearrested for a felony or serious misdemeanor within three years. Most persons who serve time in state prison are career criminals. The persons in this database had an average of 12 criminal charges each, and almost two thirds had served a previous jail or prison sentence.⁵³

A study of recidivists returning to prison in 1979 found that 60.2% were returning within 3 years of their last release. Fewer than 6 years had elapsed for 82% of those who were returned to prison. Only 10% of recidivists entering prison in 1979 had committed their last offense more than 9 years earlier.⁵⁴ Note that these figures cover

only those who are returned to prison. Others may be arrested on felony charges but not prosecuted, or sentenced to jail or probation on a lesser charge rather than to prison.

Less serious felony offenders are often sentenced to probation rather than prison, or to a combination of probation with a very short prison or jail term. Of 79,000 convicted felons sentenced to probation in 1986, 46% had been rearrested and sent to prison or jail or had absconded (whereabouts unknown) within 3 years. An additional 19% had a disciplinary hearing within 3 years for violating a condition of their probation.⁵⁵

Judges, parole boards and probation officers use various formulas for predicting recidivism to aid them in decision making. A Rand study that examined six of these formulas found them "disappointing." The formulas for predicting recidivism were "only 5 to 10 percent more accurate than would be obtained by chance."⁵⁶

Since habitual criminals are not likely to be candidates for security clearance, data on recidivism among first-time offenders is most relevant for our purposes. This is available in the study, described above, of males born in 1956 who were arrested as adults in California between the years 1974 and 1985. About half were arrested only once; the other half were rearrested at least once by age 29. The rearrest rate for whites was 47.7% and for blacks 60.3%.⁵⁷

The U.S. Department of Justice's Bureau of Justice Statistics has developed a large database of first-time arrestees in order to study recidivism among this group. Analysis of this database was not completed in time for inclusion in this report. Preliminary results indicate the findings are similar to the California study, with 51% of first-time arrestees being rearrested within an 11-year followup period. The percentages by race are 56% for blacks and 44% for whites. When this study is completed, it will provide data on how the probability of rearrest diminishes with the passage of time after the first arrest.⁵⁸

Juvenile Delinquency as a Predictor

In 1990, 16.2% of all arrests for the violent crimes of murder, forcible rape, robbery or aggravated assault involved juveniles under the age of 18. For the property crimes of burglary, larceny-theft, motor vehicle theft, and arson, 31.9% of all arrests involved juveniles under the age of 18.⁵⁹

This section examines the evidence on whether a juvenile record is predictive of later problems as an adult. It concludes that the vast majority of youths processed by the juvenile court system get into trouble only once. A significant number get into trouble twice, but it drops off sharply after that.⁶⁰ Most juvenile delinquents do stop

committing crimes as they mature. It is the chronic offenders and those who start at the earliest ages who are most likely to continue committing crimes as adults.⁶¹

In Maricopa County (Phoenix), Arizona, about half of the males and about 8% of females have some involvement with the juvenile court system before they turn 18. In about one quarter of those cases, the juvenile is actually adjudicated and placed on probation or receives some other formal court disposition. Average age of first referral to juvenile court is slightly less than 14 years. Only 4% of all the juvenile offenders, and 16% of those who were adjudicated as juveniles, go on to develop adult felony records.⁶²

A study of 10,000 boys born in 1945 and who lived in Philadelphia at least from age 10 to 18⁶³ found that 35% of the boys were arrested at least once before reaching age 18, and 6% were classified as chronic offenders (five or more arrests before age 18). These chronic offenders were responsible for over half of the offenses. Using a sample of 975 of these boys who were tracked until age 30, the study found that 45% of the chronic juvenile offenders became chronic offenders as adults, while 22% of the chronic juvenile offenders had no offenses at all as adults. Of those who had no juvenile offenses, 82% remained nonoffenders as adults.

A study of 14,000 females born in 1958, who were raised in Philadelphia and tracked until age 27,⁶⁴ found that 14% were arrested as juveniles, and only about 14% of those were arrested again as adults.

A study by the Defense Manpower Data Center of 66,000 persons from Florida who entered the armed services from fiscal year 1984 through 1987 found that over 11% had criminal offense records in the Florida juvenile offender database. A large majority concealed these offenses when filling out personal history statements at the time of enlistment. Review of military records determined that about 30% of those with a juvenile record were separated from the service for unsuitability within 4 years, as compared with 20% for those who had no juvenile record. This difference in unsuitability discharge rates for offenders and non-offenders was more or less constant regardless of race, sex, marital status, educational level, aptitude test level, and age at enlistment. In other words, all categories of military personnel with a juvenile record represent a 50% greater risk of unsuitability discharge than those without a juvenile record. It should be noted, however, that 70% of those with juvenile offense records did not leave the service for reasons of unsuitability. By this criterion, 70% succeeded.⁶⁵

Predicting Employee Honesty

In response to the high cost of employee theft, many businesses, especially retail stores, have sought additional means to screen out job applicants most likely to engage in theft or other dishonest practices. A number of psychological tests, commonly called

integrity or honesty tests, have been developed for this purpose and are commonly used for pre-employment screening of job applicants.

There are two general types of integrity tests. One type asks direct questions about attitudes toward dishonest behaviors, such as: What percentage of people do you think steal from their employer? Do you know for certain that some of your friends steal from their employer? What punishment is appropriate for a person caught stealing \$5? This line of questioning is based on the theory that people tend to assume that other people are much the same as themselves. That is, the dishonest person is likely to believe that dishonesty is common, to know people who are dishonest, and to believe that petty dishonesty does not deserve severe punishment.

A second type of test measures personality characteristics such as conscientiousness, reliability and trustworthiness. These tests aim to predict a broad range of counterproductive work behaviors including absenteeism, disciplinary problems, and drug abuse as well as theft.

The American Psychological Association recently formed a Task Force on the Prediction of Dishonesty and Theft in Employment Settings to assess the accuracy of integrity tests and the social policy questions associated with them.⁶⁶ The task force identified many problems with these tests, but found that the best tests are useful and have predictive validity. However, little information is available to justify the cutoff scores marking success or failure on the tests, and no information is available on how many potentially honest employees are lost for each potentially dishonest one who is excluded. Although the purpose of many test questions is transparent, lying on the test does not seem to be as much of a problem as many people fear.

A recent review of all previous analyses of integrity tests also concludes that these tests have some predictive validity, but that they are better at predicting organizationally disruptive behaviors in general than the more specific behavior of employee theft.⁶⁷

Although integrity tests purportedly identify an individual as honest or dishonest, or high, medium or low risk, the result is actually a probabilistic judgment. A more careful scoring might indicate, for example, a 70% or 80% chance that a given employee will or will not steal merchandise from the store. Integrity tests have a large number of what are called false positives, that is, cases in which an individual is identified incorrectly as high risk. Others may be identified as low risk when they are really high risk.

All screening mechanisms are fallible to some degree. An integrity test may be appropriate when many applicants are being screened for just a few jobs, or when it is used as only one of many variables in the employment decision. For a retail store seeking to hire honest sales clerks, a simple paper-and-pencil integrity test will be at least as effective and objective as a personal interview, and more effective than simply hiring the first qualified applicant for the job.

The integrity test does not appear to be a sufficiently sophisticated and discriminating instrument for use in the security clearance process. Its utility may also be limited by its focus on petty theft rather than serious betrayal of trust.

Measuring Risk of Betrayal of Trust

Many serious crimes involve betrayal of trust. In the absence of a criminal record, identification of personality traits associated with a tendency toward trust betrayal may be a useful screening tool.

Employees who enter positions of trust seldom do so with the intention of betraying that trust. They generally *become* criminals only after passing the initial screening and being employed for a time. An employee's decision to commit a crime such as espionage, embezzlement, procurement fraud, sabotaging a computer system, falsifying a request for financial reimbursement, or stealing government property is the product of a personal predisposition toward betrayal of trust combined with a motive and apparent opportunity to get away with it.

Scholars who have studied white collar crime in general, and espionage in particular, have identified a number of personality traits associated with betrayal of trust. One personality type predisposed toward betrayal is self-centered, lacks self-control, and tends to seek self-gratification without concern for others. When combined with thrill-seeking or a propensity toward risk-taking, a tendency to follow momentary impulses and a sense of alienation, this may lead to problems. A second type of person at risk for betrayal is irresolute and susceptible to influence; this type is less common and less well understood.⁶⁸

Many indicators of antisocial behavior are associated with crime in general. These include very low tolerance for frustration and low threshold for aggression, blaming others for one's conflicts with society, callous unconcern for the feelings of others, persistent irresponsibility, inflated and arrogant self-appraisal, and inability to maintain enduring relationships.⁶⁹ Such personality characteristics may suggest the possibility of past criminal behavior even though criminal history records checks are negative.

There exists a considerable body of experience in applying standardized psychological tests to measure some of these characteristics. The California Psychological Inventory (CPI)⁷⁰, in particular, has been recognized as "one of the best-validated and most powerful personality scales available"⁷¹ and "has been consistently successful in assessing socialization and differentiating delinquent from nondelinquent groups."⁷² The question remains, is it possible to identify individuals who have no previous criminal history but who may be predisposed toward betrayal of trust later in life if confronted with situations that provide motive and opportunity for illegal gain. The Defense Personnel Security Research Center is researching the measurement of personality

variables associated with betrayal of trust. The goal is to validate a psychological scale or set of scales to aid in personnel security screening.

Relationship of Crime to Other Behaviors of Security Concern

Alcohol and drug abuse accompanies a large proportion of criminal activity, but the exact nature and extent of the linkages between substance abuse and crime are not fully understood. A national survey of state prison inmates found that almost one third were under the influence of an illegal drug or had drunk very heavily just before they committed the crimes for which they were incarcerated. On the other hand, other research indicates that many drug abusers deliberately take few or no drugs just before critical events such as committing a theft.⁷³

Some individuals become more aggressive and violent after drinking alcohol, so it is not surprising that alcohol is often associated with violent crimes such as murder, rape, assault, and spouse and child abuse. Among drug users, the major impetus for much criminal behavior is need to obtain money for drug purchases. This results in a large number of property crimes such as burglary, robbery, and theft.

Most research on the relationship between substance abuse and crime applies to the poor, less educated, adult male who has been arrested and convicted. Interpretation of results is obscured by the fact that substance abuse and crime are both most prevalent among the same demographic group--young men. Less is known about the impact of substance abuse on those who are well educated and fully employed. One survey of 500 largely employed and educated persons who called a national hotline for help with cocaine-related problems found that 12% had been arrested for a cocaine-related crime, while 29% admitted to stealing from family, friends, or employers to support their drug habit.⁷⁴

Mitigating Factors

Passage of time since committing a criminal offense is sometimes regarded, along with other considerations, as a mitigating factor that might allow approval. The question is, how much time needs to elapse before it is reasonable to conclude that a previous criminal offense should no longer be a disqualifying factor? A second question is, how should one interpret cases in which an individual is arrested but not prosecuted or not convicted? It is recognized that in a high percentage of such cases, the individual may have been guilty as charged but released because of insufficient evidence or a legal technicality.⁷⁵ On the other hand, the American justice system prescribes that an individual is innocent until proven guilty.

In answering these questions, the previously discussed information on recidivism is a relevant factor, as are state statutes and court decisions relating to fairness and privacy issues in the use of criminal records.

In discussing recidivism, we saw that roughly 50% of first-time offenders are arrested for a second offense prior to age 29. We also saw that the chances of an offender being returned to jail or prison drops off with the passage of time. It drops off considerably after 3 years, and the chances of a return to prison are estimated at about 20% after 6 years and 10% after 9 years have elapsed. The study of recidivism by first offenders now under way at the U.S. Department of Justice will provide much better data on this subject.

At least seven states have passed statutes that recognize the slight risk of recidivism by offenders with old criminal history records. These statutes permit "old" records to be sealed or purged, either automatically through administrative action or selectively through court petition. These statutes generally apply to records that are either 5 years old or 10 years old.⁷⁶ On the other hand, courts in about 15 states have addressed the question of whether the passage of time alone can deprive the public of its right to access to criminal records; in most cases, they have determined that it cannot.⁷⁷

Somewhat different considerations apply in cases where an arrest does not lead to conviction. We have found no data on the frequency with which individuals who were arrested but not convicted are subsequently arrested for another offense. It has been argued that in the absence of conviction, an arrested person must be presumed innocent and that, therefore, the arrest is an essentially private event not subject to public scrutiny. This is especially true of arrests which end in acquittal. The Supreme Court has rejected this view, however, and found that even when arrest does not lead to conviction, records of the arrest and prosecution are matters of legitimate public interest.⁷⁸ On the other hand, the New York state Human Rights Law prohibits any person or business from asking an applicant for employment, credit or insurance about an arrest which did not lead to conviction.⁷⁹ A similar law applies in California.⁸⁰

Conclusions

Organizations involved in national security work need to protect themselves against a variety of crimes such as embezzlement, procurement fraud, and theft of government property as well as espionage. If an individual has a history of criminal behavior, this may indicate a tendency to break the rules again in the future.

Serious crime is common in some elements of society, but much crime goes unreported, and many of those who are arrested are not prosecuted for lack of evidence or are acquitted on legal technicalities unrelated to guilt or innocence. Many who commit serious felonies are convicted only of misdemeanors, but a large percentage of

serious crime is committed by a relatively small number of career criminals who offend repeatedly and usually do eventually get caught. Criminal history records checked by investigators are incomplete or misleading much of the time, but improvements are under way in many areas.

Criminal history records reflect only the tip of the iceberg of total criminal activity. Crime is so pervasive, and records of criminal offenses so incomplete, that the absence of a criminal record indicates very little. It cannot, and should not, be construed as solid evidence of the absence of criminal activity. Much past criminal behavior is likely to be discovered only by self-admission, interviews with references or developed sources, or polygraph examination.

Many first-time offenders, especially juveniles, learn their lesson and do not commit further crimes, but about 60% of adult convicted felons released from prison are arrested again within 3 years. For adults, commission of one serious crime is a fairly good predictor that they will commit others. Research is needed on the ability of psychological tests to identify individuals with no previous criminal history who may be at risk for betraying trust later in life if confronted with situations that provide motive and opportunity for illegal gain, or who may have already committed crimes without being caught or convicted.

Appendix

DCID 1/14 ADJUDICATION CRITERIA

Specific adjudication criteria are set forth in Director of Central Intelligence Directive No. 1/14, "Minimum Personnel Security Standards and Procedures Governing Eligibility for Access to Sensitive Compartmented Information (SCI)," dated 31 January 1992. The following paragraphs quote the portion of this directive dealing with criminal behavior.

Law Violations and Criminal Conduct

In determining whether an individual is stable, trustworthy, and of excellent character, judgment, and discretion as required by DCID 1/14 for access to SCI, the adjudicator must weigh carefully any criminal conduct or any record of law violations by the individual. Although a pattern of repeated minor traffic violations would be significant, the adjudicator is principally concerned with more serious criminal violations or court actions reflecting adversely on the individual's reliability and trustworthiness.

Each case involving convictions for criminal offenses must be considered from the standpoint of the nature and seriousness of the offense, the circumstances under which it occurred, how long ago it occurred, whether it was an isolated offense or a repeated violation of the law, the offender's age at the time, social conditions that may have a bearing on the individual's actions, and any evidence of rehabilitation.

Any conviction for a felony will normally support a recommendation for disapproval. If the offense was committed many years earlier, the individual has shown evidence of rehabilitation, and the investigation shows no other derogatory information, an approval may be considered. A large number of minor offenses, however, could indicate irresponsibility and may support an adverse recommendation.

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